



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 14-1807
Released: December 11, 2014

**OFFICE OF ENGINEERING AND TECHNOLOGY DECLARES THE TIME WARNER
CABLE INC. AND THE COMCAST CORPORATION REQUESTS FOR WAIVER OF RULES
TO BE A “PERMIT-BUT-DISCLOSE” PROCEEDING FOR *EX PARTE* PURPOSES AND
REQUESTS COMMENT**

ET Docket No. 13-49

Comment Date: January 12, 2015
Reply Comment Date: January 26, 2015

Time Warner Cable Inc. (Time Warner) and Comcast Corporation (Comcast) filed on July 1, 2014 and July 29, 2014, respectively, requests for waiver of Section 15.407(a)(1)(i) of the Commission’s rules to allow the operation of Unlicensed National Information Infrastructure (U-NII) devices designed to operate in the 5.725-5.825 GHz (U-NII-3) band to operate at modified parameters in the 5.15-5.25 GHz (U-NII-1) band. TWC seeks a waiver to permit up to 10,000 new devices in the U-NII-1 band with up to 250 mW of conducted power and a power spectral density (PSD) of 11 dBm/MHz with a 6-dBi gain antenna. Comcast requests a similar waiver to permit up to 3,583 new devices to operate in the U-NII-1 band.

In the *First Report and Order (First R&O)* in this proceeding, the Commission adopted rule Section 15.407(a)(1)(a) which allows fixed outdoor access points in the U-NII-1 band at a maximum conducted output power level not to exceed 1 W and a PSD not to exceed 17 dBm/MHz with an allowance for a 6 dBi antenna gain and a limit of 125 mW (21 dBm) EIRP at any elevation angle above 30 degrees measured from the horizon.¹ In other words, each outdoor access point must limit the energy directed upward so that, in the aggregate, they would avoid causing interference to satellites operating in the U-NII-1 band. The Commission recognized that some U-NII-3 fixed access points already deployed could potentially be reprogrammed to meet the new U-NII-1 power limits and thus quickly begin more flexible operation in the U-NII-1 band using this existing equipment. The Commission stated that, if

¹ See, *Revision of Part 15 of the Commission’s Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, First Report and Order*, ET Docket No. 13-49, 29 FCC Rcd. 4127 (2014) (*First R&O*) at 4138.

outdoor U-NII-3 band systems installed prior to the effective date of the new rules were not able to comply with the 125 mW EIRP requirements of Section 15.407(a)(1)(i) to limit energy directed upward, manufacturers or equipment operators could file for a waiver of this provision for operation in the U-NII-1 band, no later than 30 days after of the effective date of the new rules. The Commission stated that if the waiver is designed to enable existing deployments to operate with up to 250 mW of conducted power and a PSD of 11 dBm/MHz with a 6 dBi gain antenna, the Commission could make a quick and likely favorable good cause determination sufficient to grant the waiver request.

On August 20, 2014, the Commission granted waivers to Cox Communications, Time Warner, and Comcast under the streamlined provisions described above to allow already deployed U-NII-3 systems to obtain certification for operation in the U-NII-1 band. Time Warner and Comcast now seek similar waivers for additional yet-to-be-deployed devices.

The FCC's Office of Engineering and Technology (OET) is reviewing the waiver request. OET has concluded that in order to develop a complete record on the issues presented by this request, this proceeding will be treated, for *ex parte* purposes, as "permit-but-disclose" in accordance with Section 1.1200(a) of the Commission's rules, subject to the requirements under Section 1.1206(b).

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed: (1) using the Commission's Electronic Comment Filing System (ECFS), (2) through the Federal Government's eRulemaking Portal, or (3) by submitting paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties that choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties should also send a copy of their filings to Aole Wilkins, Office of Engineering and Technology, Federal Communications Commission, Room 7-A431, 445 12th Street, SW, Washington, DC 20554, or by e-mail to aole.wilkins@fcc.gov. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

Office of Engineering and Technology contact: Aole Wilkins at (202) 418-2406.

By the Chief, Office of Engineering and Technology

-FCC-